

REMARKS

Reconsideration of this Application is respectfully requested. Upon entry of the foregoing amendment, claims 1-19, 21-28, 31-41, 43-55 and 57-66 are pending in this application with claims 1, 10, 19, 22, 26, 31, 32 and 43 being the independent claims. The Applicants respectfully request that the Examiner reconsider and withdraw all outstanding rejections.

Interview Summary

The undersigned would like to express appreciation to Examiner Dat Nguyen and Examiner John Hotaling for their time and attention extended during the interview on February 6, 2008. The subject matter of claims 1 and 19, as well as general discussions regarding the invention were discussed during the interview. No agreement was reached during the interview.

Claim Rejections Under 35 U.S.C. 103 (a)

Claims 1-19, 21-41 and 43-62 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Pub. No. US 2001/0038999 by Hainey, II ("Hainey") in view of Microsoft Office Shortcut Bar ("Microsoft Office") and Microsoft Paint, copyright 1981-1998 version 4 ("Microsoft Paint") and further in view of the publication "SAMS Teach Yourself Paint Shop Pro 5" by Michael T. Clark ("Clark").

Claims 1 and 43 and their Dependent Claims

Claims 1 and 43 have each been amended to recite "said second interactive tool being one of activated or inactivated based on the selection of said one of said plurality of activities." None of Hainey, Microsoft Office, Microsoft Paint, or Clark, alone or in combination, disclose or suggest such a device.

Specifically, as the Examiner concedes, Hainey, Microsoft Office and Microsoft Paint do not disclose "a first interactive tool which enables the selection of various activities wherein a second interactive tool enabl[es] the selection of a plurality of characteristics," where the

“plurality of characteristics [are] configured to vary based on the selection of one of said plurality of activities.” (Office Action, page 3). The Applicants disagree with the Examiner’s assertion that Clark teaches such limitations. In addition, the Applicants assert that none of the cited references disclose or suggest a “second interactive tool [from a tool bar] being one of activated or inactivated based on the selection of said one of said plurality of activities.”

Clark discloses an image editing program that can be used to edit photographs. The program of Clark enables a user to select an image type from a list of image types based on a color scale (i.e., 2 (1 bit), 16 (4 bit), Greyscale (8 bit), 256 (8 bit), 16.7 million colors (24 bit)). Upon such selection, a color palette will be displayed that provides different colors in the palette depending on the image type selected. Clark, however, fails to disclose the elements of claim 1 that are also lacking in the other cited references. For example, in Clark, as stated above, the image types are provided in a first list. The user makes a selection of the image type, which determines the particular color palette to be displayed. The user then makes selections of colors directly on the color palette. Thus, Clark does not disclose or suggest a single “tool bar fixedly disposed on the touch-screen display” and “including a plurality of interactive tools,” where the selection of a first interactive tool from the tool bar enables the selection of one of a plurality of *drawing* activities, and the selection of a second interactive tool from the *same* tool bar enables the selection of a plurality of different characteristics associated with the second interactive tool, where the plurality of different characteristics varies depending on the selected activity. Clark also fails to disclose “said second interactive tool being one of activated or inactivated based on the selection of said one of said plurality of activities.”

The Examiner suggested in the interview that features such as the ability of the characteristics associated with one interactive tool on a tool bar to vary based on the selection of an activity associated with another interactive tool on the toolbar are merely a design choice. The Applicants respectfully disagree with this assertion and submit that the Examiner is using impermissible hindsight and the knowledge and teachings of the present application to attempt to show that a hand-held device having such features is merely a design choice. The functionality of the hand-held device of the present application does not merely present a different way of

accomplishing the same tasks, but rather provides features and functions not present in the prior art.

Moreover, none of the cited references, including Clark, disclose or suggest a “second interactive tool [from a tool bar] being one of activated or inactivated based on the selection of said one of said plurality of activities.” The hand-held device can be used for different types of drawing activities, as well as gaming activities. The tool bar is fixedly disposed on the device, and the interactive tools (although remaining displayed on the device) may or may not be activated (e.g., turned on) for use with a given activity.

For example, as described in the specification, the interactive tools of the hand-held device can be configured such that they are activated and thus available for use with some activities, but not with others. For example, once an activity is selected by a user, the device can activate some or all of the interactive tools to be used with that activity. As one example, if a free-drawing activity is selected, the interactive tools associated with the icons 201-209 on the toolbar menu can be activated (i.e., turned on or made available for use). If the user selects a concentration-game activity, the interactive tools associated with some of the icons 201-209 may be inactivated (i.e., turned off or made unavailable). *specification*, par. [1036]. Thus, none of the cited references disclose or suggest that an interactive tool on a toolbar can be activated or inactivated based on the selection of an activity.

Accordingly, for at least these reasons, claims 1 and 43 are allowable over the cited references. Based at least upon their dependence from claim 1, claims 2-9, 52 and new claim 65 are also allowable.

Claim 10 and its Dependent Claims

Claim 10 has been amended to recite “at least one of said plurality of interactive tools being a full screen erase tool.” None of Hainey, Microsoft Office, Microsoft Paint, or Clark, alone or in combination, disclose or suggest such a device.

Accordingly, at least for this reason Applicants respectfully submit that claim 10 is allowable. Based at least upon their dependence from claim 10, claims 11-18, 53 and new claim 66 are also allowable.

Claim 19 and its Dependent Claims

Claim 19 recites “determining if the selected interactive tool is activated; and if the interactive tool is activated, displaying indicia of the at least one characteristic associated with the selected interactive tool, the at least one characteristic of the selected interactive tool including a drawing characteristic unique to the selected one of a plurality of activities.” For similar reasons as stated above for claims 1 and 43, none of Hainey, Microsoft Office, Microsoft Paint, or Clark, alone or in combination, disclose or suggest such a method. Specifically, none of the cited references disclose or suggest changing an interactive tool (associated with a selectable icon in a toolbar) between being activated and inactivated based on a selected activity. In all of the cited references, the tools associated with an icon on a toolbar are not activated or inactivated based on a selection of an activity.

Accordingly, at least for this reason the Applicants respectfully submit that claim 19 is allowable. Based at least upon their dependence from claim 19, claims 21 and 54 are also allowable.

Claim 22 and its Dependent Claims

Claim 22 has been amended to recite “retrieving a second activity application from a removable read-only memory cartridge for display on the hand-held electronic toy” and “the second characteristic being configured to interact with the retrieved second activity application from the removable read-only memory cartridge, and not the first activity application.” None of Hainey, Microsoft Office, Microsoft Paint, or Clark, alone or in combination, disclose or suggest such a method.

Specifically, none of the cited references disclose or suggest a method that includes determining a characteristic of a selected interactive tool that is configured to interact with an

activity application retrieved from a read-only memory cartridge and not interact with a first activity application retrieved from a different memory.

Accordingly, at least for this reason Applicants respectfully submit that claim 22 is allowable. Based at least upon their dependence from claim 22, claims 23-25, 55 and new claims 63 and 64 are also allowable.

Claim 26 and its Dependent Claims

Claim 26 recites “displaying a plurality of selectable starter scenes on the touch-screen display of the hand-held electronic toy based on a selection of one drawing activity from said plurality of drawing activities” and “upon receipt of a selection of a starter scene from said plurality of selectable starter scenes modifying at least one characteristic associated with an interactive tool on a toolbar from a first state to a second different state based on the selection of said starter scene.” For similar reasons as described above for claims 1, 19, and 43 none of Hainey, Microsoft Office, Microsoft Paint, or Clark, alone or in combination, disclose or suggest such a method.

Specifically, none of the cited references disclose or suggest a method that includes varying a characteristic associated with an interactive tool on a toolbar based on the selection of a starter scene from a selection of starter scenes, where the selection of starter scenes is based on a selection of a drawing activity.

Accordingly, at least for this reason the Applicants respectfully submit that claim 26 is allowable. Based at least upon their dependence from claim 26, claims 27-28 and 56 are also allowable.

Claim 31 and its Dependent Claims

Claim 31 has been amended to recite “a first read-only memory . . . including code associated with a first drawing activity” and “a port configured to receive a cartridge including a second removable read-only memory, the second removable read-only memory including code associated with a second drawing activity . . . the second characteristic being configured for use

with the second drawing activity and not the first drawing activity.” For similar reasons as described above for claim 22, none of Hainey, Microsoft Office, Microsoft Paint, or Clark, alone or in combination, disclose or suggest such a device. Specifically, none of the cited references disclose or suggest a characteristic of an interactive tool that is configured for use with a drawing activity associated with a removable read-only memory and not a first activity associated with a first read-only memory.

Accordingly, at least for this reason the Applicants respectfully submit that claim 31 is allowable. Based at least upon their dependence from claim 31, claims 57-61 are also allowable.

Claim 32 and its Dependent Claims

Claim 32 recites “each of the plurality of selectable icons associated with at least one drawing tool, each of the plurality of selectable icons being one of activated or inactivated based on an activity selected from a plurality of selectable activities.” For similar reasons as stated above for claims 1, 19 and 43, none of Hainey, Microsoft Office, Microsoft Paint, or Clark, alone or in combination, disclose or suggest such a device. Specifically, none of the cited references disclose or suggest selectable icons that are either activated or inactivated based on the selection of a particular activity.

Accordingly, at least for this reason Applicants respectfully submit that claim 32 is patentable. Based at least upon their dependence from claim 32, claims 33-41 and 62 are also allowable.

CONCLUSION

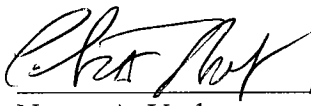

All of the stated grounds of rejection have been properly traversed or rendered moot. The Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections, and that they be withdrawn. The Applicants believe that a full and complete response has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment is respectfully requested.

Dated: March 27, 2008

COOLEY GODWARD KRONISH LLP
ATTN: Patent Group
777 6th Street, NW, Suite 1100
Washington, DC 20001
Tel: (703) 456-8000
Fax: (202) 842-7899

Respectfully submitted,
COOLEY GODWARD KRONISH LLP

By:  Rec. No. 34,262
 Nancy A. Vashaw
Reg. No. 50,501